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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/751,548 | 12/29/2000 | Min Zhu | M-8856 US | 7423 |

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Philip W. Woo
c/o SIDLEY AUSTIN BROWN & WOOD LLP
555 CALIFORNIA STREET
SUITE 5000
San Francisco, CA  94104-1715

| EXAMINER |
|---|
| STRANGE, AARON N |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2153 | |

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>16 December 2003</u>.

2a)☐ This action is **FINAL**.          2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
  closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-18</u> is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-18</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>16 August 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All  b)☐ Some * c)☐ None of:

  1.☐ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____.

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
    application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
  Paper No(s)/Mail Date <u>4,7</u>.

4) ☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

## DETAILED ACTION

### *Double Patenting*

1.      The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.  See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application.  See 37 CFR 1.130(b).

        Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer.  A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2.      Claims 1-18 are provisionally rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claims 1-18 of

copending Application No. 09/751424, currently published as US Patent Publication

Number 2003/0167301.  The table below highlights the differences between the claims.

| Present Application | Copending Application 09/751,424 |
|---|---|
| 1. A **scalable** computer system for distributed collaborative computing, the system comprising: | 1. A computer system for distributed collaborative computing, the system comprising: |
| a plurality of server computers connected to a plurality of client computers via a global-area computer network | a plurality of server computers connected to a plurality of client computers via a global-area computer network |

| | |
|---|---|
| a high-speed direct connection link connecting the plurality of server computers | a high-speed direct connection link connecting the plurality of server computers |
| and a computer program executable by the server computers, wherein the computer program comprises computer instructions for: | and a computer program executable by the server computers, wherein the computer program comprises computer instructions for: |
| **receiving a request to join an on-line conference from a client computer** | |
| **selecting one of the server computers based upon processing loads of the server computers** | |
| establishing a connection between the client computer and the server computer over the global-area network | establishing a connection over the global-area network between one of the server computers and one of the client computers |
| and establishing a communication link between the selected server computer and one of the other server computers over a high-speed direct connection link. | establishing a communication link between the server computer and one of the other server computers over the high-speed direct connection link. |

|  | **and conducting an on-line conference among an arbitrary number of the client computers connected to an arbitrary number of the server computers.** |
|---|---|
| Claims 2-6, 8-12 and 14-18 are identical. | Claims 2-6, 8-12 and 14-18 are identical. |
| Claims 7 and 13 differ in the same manner as claim 1. | Claims 7 and 13 differ in the same manner as claim 1. |

Although the conflicting claims are not identical, they are not patentably distinct from each other. All of the limitations recited in the claims of the present application are present in the claims of Copending Application 09/751,424, except for: the computer system being scalable, receiving a request to join an on-line conference from a client computer, and selecting one of the server computers based upon processing loads of the server computers.

However, the computer system claimed in Copending Application 09/751,424 is scalable since it comprises a plurality of server computers, and adding more server computers can scale the system. Receiving a request by the client to join an on-line conference is inherent in conducting an on-line conference as cited in claim 1 of Copending Application 09/751,424. When conducting a conference among clients, the clients must join place a request to join the conference in order to participate. Selecting one of the server computers based upon processing loads of the server computers is a well-known practice in the art. Load-balancing techniques are well-known and often

used to distribute the load of multiple clients connecting to multiple servers. This

prevents single servers from getting overloaded with connections while other servers sit

idle, improving the responsiveness of the system for the clients.

This is a <u>provisional</u> obviousness-type double patenting rejection because the

conflicting claims have not in fact been patented.

### Claim Objections

3.      Claims 6,12, and 18 are objected to because of the following informalities:  There

appears to be a typographical error ---in not exceeded--- in Claim 6, Line 5; Claim 12,

Line 3; and Claim 18, Line 5. The Office recommends that the claims be amended to

read ---is not exceeded---.  Appropriate correction is required.

### Claim Rejections - 35 USC § 102

4.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.      Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Salesky

et al. (US 6,343,313).

6.      With regard to claims 1,7 and 13, Salesky et al. disclose a scalable computer

system for distributes collaborative computing, the system comprising: a plurality of

server computers connected to a plurality of client computers via a global-area

computer network (Fig 1 and Col 9, Lines 1-5); a high-speed direct connection link

connecting the plurality of server computers (Col 20, Lines 38-39 and Col 9, Lines 1-

12); and a computer program executable by the server computers, wherein the

computer program comprises computer instructions for: receiving a request to join an

on-line conference from a client computer (Col 18, Lines 12-15); selecting one of the

server computers based upon processing loads of the server computers (Col 25, Line

65 to Col 26, Line 3); establishing a connection between the client computer and the

server computer over the global-area network (Sever accepts connections) (Col

18,Lines 18-20); and establishing a communication link between the selected server

computer and one of the other server computers over a high-speed direct connection

link (Fig 9C and Col 27, Lines 15-24).

7.      With regard to claims 2,8, and 14, Salesky et al. further disclose sharing an

application program executed on one of the client computers on an arbitrary number of

other client computers (captures output from a program and displays it on the client

computers) (Fig 3. and Col 7, Lines 21-34)

8.      With regard to claims 3,9, and 15, Salesky et al. further disclose viewing a

document stored on one of the client computers on an arbitrary number of other client

computers (Images shown to clients during conference) (Fig 3. and Col 7, Lines 21-34)

(Clients can retrieve saved documents from previous meetings) (Col 24, Line66 to Col 25, Line 10).

9.    With regard to claims 4,10, and 16, Salesky et al. further disclose detecting a failure of one of the server computers handling the on-line conference; disconnecting the failed server from the on-line conference; connecting another of the server computers to the conference; and resuming the on-line conference (Col 26, Line 63 to Col 27, Line 24).

10.    With regard to claims 5,11, and 17, Salesky et al. further disclose storing information about the status of the on-line conference in the database (Col 27, Lines 21-24).

11.    With regard to claim 6,12, and 18, Salesky et al. further disclose ensuring that a maximum number of authorized conference participants is not exceeded (Col 32, Lines 9-14).


## *Conclusion*

12.    The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13.    Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 703-305-8878. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

FRANTZ B. JEAN
PRIMARY EXAMINER